S.B.CIVIL WRIT PETITION NO.3538/1992

Pema Ram & Ors.
V.
State of Rajasthan & Ors.

Date of Order :: 3rd July, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Tribhuvan Gupta, for the petitioners.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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Counsel for the petitioners while giving challenge to the order impugned dated 1.7.1992 passed by the Board of Revenue rejecting the review petition preferred by the petitioners has confined his contention to the extent of finding given by the Board relating to maintainability of the review petition. It is asserted by counsel for the petitioners that under Section 86 of the Rajasthan Land Revenue Act, 1956 (hereinafter referred to as "the Act of 1956") a review petition may be entertained even at the instance of a person who is not party to the suit or other proceedings.

Section 86(1) of the Act of 1956 reads as follows:-

> "86.Review by the Board and other courts.-(1)The Board, of its own motion or on the application of a party to a suit or other

> proceeding, may review and may rescind, alter or confirm any order made by itself or by any of its members."

From reading of the provisions of Section 86 of the Act of 1956, it is apparent that the Board is having power to review its order at its own or on the application of a party to the suit or other proceedings.

Any party or person who is not party to the suit may bring certain facts that may warrant review of the order by the Board at its own, therefore, an application preferred by a person aggrieved pointing out an error that may warrant review of the order by the Board must be looked into by the Board. Such application cannot be summarily rejected by the Board merely by saying that no application except preferred by the party to the suit or other proceedings can be entertained. If any application is preferred under Section 86 of the Act of 1956 by a person who was not party to the suit or other proceedings then that should also be required to be examined by the Board with a view that it may or may not involve sufficient reason for invoking review powers at its own by the Board.

In the instant matter the Board of Revenue rejected the review petition preferred by the petitioners simply on the count that no application

under Section 86 of the Act of 1956 could have been filed by a person other than the parties to the suit or other proceedings. No doubt that the present petitioners were not parties in earlier suit but the Board to satisfy itself that there was no case to review the order earlier made at its own should have examined the application on merits even without issuing notice to other party and if any sufficient reason was available, it should have invoked power to review its order at its own.

In view of discussion made above, this petition for writ is disposed of. The order passed by the Board of Revenue dated 1.7.1992 is quashed. The matter is remanded to the Board of Revenue to decide the application preferred by the petitioners to review the order concerned. The Board of Revenue shall consider the application to form an opinion as to whether there is/is not a case to review at its own the order earlier passed.

No order to costs.

(GOVIND MATHUR),J.

Kkm/ps.